

-

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.614 of 2005

Between:

- 1 G. Surya Rao S/o Kotaiah
R/o Nutakki, Mangalagiri Mandal, Guntur District
- 2 V. Subbamma W/o Subbarao
R/o Nutakki, Mangalagiri Mandal, Guntur District
- 3 Nutakki Baburao S/o Kotaiah
R/o Nutakki, Mangalagiri Mandal, Guntur District

..... PETITIONERS

AND

- 1 The Government of Andhra Pradesh, rep by its Secretary, Revenue
Department, Secretariat, Hyderabad
- 2 The District Collector, Guntur District Guntur District
- 3 The Revenue Divisional Officer, Guntur, Guntur district
- 4 The Mandal Revenue Officer, Mangalagiri Guntur District
- 5 The Gram Panchayat, Nutakki, Mandalagiri Mandal, Guntur District,
rep by Village Secretary

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the orders of the 5th respondent in Rc. No. 28/1998, dated 9-12-2004 and 29-12-2004 and the action of the Respondents in seeking to dispossess them from their residential houses on the land in our occupation in an extent of Ac. 0.10 cents out of Ac. 6.52 cents of land in S. Nos. 386/4, 387 and 390 situate in Kandula Obul Reddy colony, Nuttakki Village, Mangalagiri Mandal, Guntur district as illegal, arbitrary etc., or alternatively direct the Respondents to provide alternative house sites and put them possession of the same, in the above said colony to them before evicting them

from their houses.

Counsel for the Petitioners: MR.V.V.L.N.SARMA

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

THE HON'BLE SRI JUSTICE N.V. RAMANA

-

W.P. No. 614 of 2005

-

Order:

Aggrieved by the proceedings dated 9-12-2004 and 29-12-2004 issued by the respondent No.5-Gram Panchayat resolving to construct a Community Hall in the land in their occupation, and requesting the revenue officials to evict the petitioners from the lands in their occupation, the petitioners filed the present writ petition.

The petitioners being landless poor persons, claim to have occupied small extents of land altogether admeasuring Ac.0-10 cents, which is community land, in Sy. Nos. 386/4, 387 and 390, situated in Kandula Obul Reddy Colony, Nuttaki village, Mangalagiri Mandal, Guntur District, about 30 years ago, and having occupies, they erected thatched houses, and are staying therein by paying taxes to respondent No.5-Gram Panchayat regularly. It is their case that on earlier occasion, when the respondents sought to dispossess them, they filed W.P. No. 19918 of 2004, which was disposed of by order dated 3-11-2004 giving liberty to the petitioners to approach the respondents for allotment of Government land, and in pursuance of the said order, they made representation dated 16-11-2004 to the Mandal Revenue Officer requesting to allot land. It is the case of the petitioners that without making any reference to their representation, respondent No.5-Gram Panchayat, passed resolution to construct Community Hall in the land in their occupation and requested the revenue officials to evict them from the lands, which is arbitrary and illegal.

The petitioners, admittedly, are in occupation of community land. The law is well settled that no person can be allowed to occupy the lands, which are reserved for community purpose. Since the petitioners are in occupation of the land reserved for community purpose, no exception can be taken to the action of respondent No.5-Gram Panchayat resolving to evict the petitioners from the land in their occupation, and construct a Community Hall, which is for community purpose. Merely because the petitioners have been paying taxes to respondent No.5-Gram Panchayat, it does not mean that the lands encroached by them stood regularized, and more so when the encroachment made by them is reserved for community purpose. Be that as it may, earlier when the petitioners in W.P. No. 19918 of 2004 resisted similar eviction orders issued by the Mandal Revenue Officer, this Court by order dated 3-11-2004, disposed of the said writ petition in the following terms:

Learned counsel for the petitioners submits that if the respondents provide an alternative site to the petitioners they would obey the orders passed by the fourth respondent-Mandal Revenue Officer dated 21-2-2004 wherein it was directed to vacate the land occupied by them, which was reserved for community purpose. If that be the case, the proper course open for the petitioners is to approach the respondents by making a representation requesting for allotment of alternative land, and if such a representation is filed, it is for the respondents to consider the same and pass appropriate orders. But, it is not open for the petitioners to contend that they are entitled to alternative land as a matter of right, and it is for the authorities to provide the same.

From the above, it is clear that no positive direction was given to the respondents to allot alternative land, and that it is for the authorities to consider, and insasmuch as in pursuance of the above order, the petitioners have already made representation to the authorities concerned, it is for them to consider and pass appropriate orders, but certainly the petitioners cannot be allowed to question the resolution passed by respondent No.5-Gram Panchayat resolving to construct a Community Hall in the land earmarked for community purpose, which admittedly is under the encroachment of the petitioners, and likewise no exception can be taken to the action of respondent No.5-Gram Panchayat requesting the revenue authorities to evict the petitioners from the community land, which is occupied by them.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date:1st February, 2005.

KSR

To

1 The Secretary, Revenue Department, Government of Andhra

Pradesh, Secretariat, Hyderabad

2 The District Collector, Guntur District Guntur District

- 3 The Revenue Divisional Officer, Guntur, Guntur district
- 4 The Mandal Revenue Officer, Mangalagiri Guntur District
- 5 The Village Secretary, Gram Panchayat, Nutakki, Mandalagiri

Mandal, Guntur District,

6 Two CCs to GP for Revenue, High Court of AP, Hyderabad (OUT)

7 2 CD copies

Form-NIC-OGS/WP{TRT}